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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

O.A.979/99

Date: 27-6-2000

Between:

S. Hanumantha Rao

.. Applicant

A N D

1. The Superintendent of Post Offices,
Guntur Division,
Guntur.

2. Ambati Prasada Rao,
Extra Departmental Packer,
Polakampadu Industrial Area S.O.
Tadepalli.

.. Respondents

Counsel for the applicant : Mr.K. Sudhakar Reddy

Counsel for the respondent: Mr.B.N.Sharma, Sr.CGSC
for official respondent

Mr.TVVS Murthy for R-2

Coram:

Hon. Shri R. Rangarajan, Member (A)

Hon. Shri B.S. Jai Parameshwar, Member (J)

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Heard Mr. K. Sudhakar Reddy, learned counsel for the applicant, Mr. B. Narasimha Sharma, Sr. CGSC for official respondents and Mr. TVVS Murthy learned counsel for respondent no. 2

2. The applicant in this OA was an EDA and was promoted as Group 'D' on 28-3-1999. The contention of the applicant is that he is eligible for consideration for the post of Postman. In view of the DG P&T's letter dt. 26-8-85 enclosed at Annexure R-VI page 15 to the OA, he should have been considered first for the post of Postman before considering him for posting as Group 'D'. As there were vacancies of Postman available the applicant should not have been posted as Group 'D'. As that was not done he had filed this OA to call for the records pertaining to the selections for the vacancies of 1999 for the posts of Postman in pursuance of the notification dt. 16-6-99 and consider the applicant for promotion being the seniormost EDA who had completed already training for the vacancy under seniority quota with all consequential benefits.

3. The respondents submit that in view of DG P&T letter dt. 26-8-85 the applicant having joined as Group 'D' cannot ask for a postman post. For that they rely on the following decision of the

"Having regard to all relevant factors, it has been decided that in future recruitment test to the cadre of Postman as far as possible may be held first and after the result is declared the date for exam. for Gr.D cadre may be announced. It may be ensured that in no case no EDA who is appointed to any departmental post on a regular basis is allowed to appear thereafter in any other recruitment test meant for EDAs."

4. As the applicant had already been appointed as Group 'D' he is not eligible to be considered for the post of Postman.

5. The learned counsel for R-2 submits that the applicant having accepted Gr. 'D' post and enjoyed the benefits of Group 'D' over a year ~~the authority~~ ^{as his client} cannot ask for posting as postman as his client will be jeopardised by considering him for the post of Postman.

6. It is a fact that the selection for the post of Postman should be considered first ~~against~~ ^{as per the} seniority of the EDAs before considering them for posting as Group 'D'. In this case the relevant portion ^{above} extracted clearly states that the recruitment test to the cadre of Postman as far as possible should be held first and after ~~the result is declared~~ the date for examination for group 'D' may be announced. If there were vacancies available in the post of Postman when the applicant was appointed as Group 'D' then the respondents should have considered the

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applicant for the post of Postman before considering him for the post of Group 'D'. In the notification dt. 16-6-99 the particulars for the vacancies for the year 1999 has been indicated as 'OC-1 and SC 1 under departmental quota and under Direct recruitment quota it was shown as 1-OC (under seniority) and 1-OC (under merit). However in the additional reply statement filed by the respondents it is stated that as on 1-1-1999 there ~~are~~^{were} 16 vacancies in Postman cadre, out of which 14 vacancies were pertaining to the year 1997 and 1998 for which examination was held on 27-9-98 but the announcement of results kept pending in view of the interim order in OA 1046/98 of this Tribunal. The OA has been disposed of and 14 vacancies were filled up. The remaining two vacancies arose unexpectedly, one due to termination of services of one Sri M.Phanichandra Rao, Postman Guntur Bazar SO on 11-4-98 and the other due to death of Sri Kaleshavali, Postman, Guntur Bazar SO on 23-11-98. These two unforeseen vacancies were to the recruitment year 1999. Two more vacancies arose due to promotion to Postal Assistant cadre of S/Sri A.Padmavathi, Postman Guntur HO and SBBVL Narayana Postman Guntur Collectorate SO. Thus the total number of vacancies for the recruitment year 1999 comes to 4 only. It is also stated that the vacancy position was approved by the Post Master General on 11-6-99.

7. It is a fact that two vacancies of 98 were carried forward for the year 1999. Whether it is

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approved by the PMG or not is not a criterion for consideration. The approval is to fill up the vacancies and it ~~has no relevance~~ to the occurrence of the vacancies. The two vacancies of '98 were available when the applicant was promoted as Group 'D'. Hence as per the DG P&T instructions extracted above the case of the applicant should have been considered for promotion to the post of Postman before considering his case for the post of Group 'D'. The applicant also failed to check the position of the availability of vacancies of Postman before he ~~xx~~ took over as Group 'D'. The applicant cannot escape the responsibility of not checking the vacancy position due to his ignorance. He is also responsible for taking up Group 'D' post without checking the availability of vacancy ~~as~~ Postman and thereby asserting his ^{claim} for consideration for the post of Postman before being posted as Group 'D'. In our ~~opinion~~ opinion the applicant failed to check the vacancy position and take action as deemed necessary.

8. In view of the position as explained above a fair decision has to be taken which will not affect ~~the~~ ^{those} postman already promoted and also will not jeopardise the case of the applicant. Hence a direction which will fulfill the above has to be issued.

9. In view of the above discussion under the facts and circumstances of the case the following direction is given :

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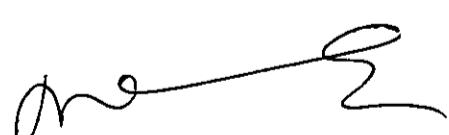
(a) The applicant should be reverted as EDA forthwith; Before reverting him the consent of the applicant should be obtained ~~get~~ in writing accepting reversion.
 If the applicant is asked to submit his application for reversion to the ~~post~~ of EDA, the same should be submitted by him and in case he wanted ~~same~~ reversion the ~~same~~ should be done within ten days from the date of receipt of such letter;

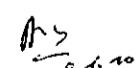
(b) In case the applicant accepted ~~as~~ reversion as EDA he may be posted as EDA in an existing vacancy and his case ~~shall~~ be considered for ~~the~~ promotion to the post of Postman in the vacancy existed as on date as well as vacancies arising in future.

10. The OA is ordered accordingly. No order as to cost.


 (B.S.JAI PARAMESWAR)
 Member (J)

MD


 (R.RANGARAJAN)
 Member (A)


 1/26/10